

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HARRY L. BIERLEY, }
Petitioner, } Civil Action No. 04-363 Erie
v. }
WARDEN JAMES VESHECCO, }
Respondent. }

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on December 14, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 26], filed on August 16 2006, recommended that Petitioner's Petition be dismissed as moot and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondent. Objections were filed by Petitioner on September 5, 2006 [Doc. No. 27]. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 6th day of September, 2006;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED as moot and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 26] of Magistrate Judge Baxter, filed on August 16, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge